

Appl. No. 09/926,002
Amendment dated: October 3, 2003
Reply to OA of: June 3, 2003

REMARKS

Applicants have amended the claims to more particularly define the invention taking into consideration the outstanding Official Action. The obvious typographical errors noted in the objection to the claims have been corrected. The undersigned attorney regrets these errors which likely arose from an improperly edited spell checking program.

On page 4 of the Official Action it is stated that claims 11, 13, 14, 20, 22, 29, 31, 32, 38 and 40 recite the term "derived from" and that it is unclear as to what the Applicant is referring and that clarification as to the meaning of the term is required. Applicants most respectfully submit that the term "derived from" cannot be taken out of context but must be viewed in light of the claim in which it is found. Also, the specification may be considered in determining the meaning of the term as well as the level of one of ordinary skill in the art to which the invention pertains. For example, claim 11 is directed to a vaccine formulation against a mycobacterium containing as immunizing component, an immunogenic product consisting of antigenically active carbohydrate moieties (ACM) derived from *Mycobacterium tuberculosis*. Thus, one of ordinary skill in the art would fully appreciate the meaning of the term "derived from" as used in the context of the presently claimed invention. Accordingly, it is believed that the above clarifies the meaning of the term as used in the context of the present invention and more importantly in the claimed subject matter.

Applicants appreciate the Examiner's consideration of the previous responses and that all of the rejections over the prior art have been withdrawn in the outstanding Official Action as set forth on page 2. However, new obviousness rejections have been issued relying upon the same primary references as relied upon in the previously withdrawn rejections. For the reasons already of record, these rejections should be withdrawn as a prima facie case of obviousness has not be established.

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In this regard, Applicants most respectfully submit that for the reasons already of record, and herein incorporated by reference, the combination of the primary references do not render obvious the presently claimed invention and this fact is explicitly recognized in the Official Action by the reliance on the Hamasur et al. reference. Applicants most respectfully submit that the Hamasur et al reference is not available as prior art against the presently claimed invention which is entitled to a priority date of February 12, 1999. This date is prior to the publication date of the Hamasur et al. reference which on its face states that it was accepted on March 10, 1999. Clearly, it was published subsequent to the priority date to which the present application is entitled. Without this reference, the rejections should be withdrawn for the reasons of record.

The summary of the Official Action acknowledges Applicants' claim for priority and receipt of all the certified copies. For the convenience of the Examiner, a further copy of the priority document which is in the English language and has the date of February 12, 1999 on the face page is submitted herewith. Applicants most respectfully submit that this priority application supports the presently claimed subject matter in accordance with the requirements of 35 U.S.C. 119 and Applicant is entitled to a filing date of February 12, 1999 for the above identified application. As noted therein, on page 1, it is noted that the invention relates to a novel vaccine formulation against microorganism such as *Mycobacterium tuberculosis*. See also pages 6 and 7 of the application and the working examples. Since this reference is relied upon in each of the rejections, these rejections have been obviated in view of the earlier priority date to which the presently claimed invention is entitled. Accordingly, it is most respectfully requested that these rejections be withdrawn.

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In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all the claims now present in the application are most respectfully requested.

Respectfully submitted,

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